

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

INTEROCEAN COAL SALES, LDC,)

Plaintiff,)

v.)

EVONIK TRADING, GmbH, an alien)
Corporation and EVONIKSTEAG GmbH,)
an alien corporation,)

Defendants.)

Case No.: 11-CV-0940 (NRB)

ECF Case

ORAL ARGUMENT REQUESTED

PLAINTIFF'S NOTICE OF RULE 56 MOTION FOR SUMMARY JUDGMENT

COUNSEL:

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law, Plaintiff's Statement of Undisputed Facts, Declarations of Randall A. Tisdale, John McClellan, Brian Sewell, and Jeffrey R. Baron and the exhibits attached thereto,¹ and upon all pleadings heretofore filed, Interocean Coal Sales, LDC, by its attorneys, Bailey & Glasser, LLP and Duane Morris, LLP, will move this Court, before the Honorable Naomi R. Buchwald, United States District Court Judge, at the United States Courthouse, 500 Pearl Street, New York, New York, 10007, at a date and time set by the Court, pursuant to Rule 56 of the Federal Rules of Civil Procedure, for an Order granting summary judgment on behalf of Plaintiff, and for such other relief as this Court may deem just and proper.

¹ Interocean has submitted a pre-motion letter to the Court requesting leave to file under seal certain information designated by Defendants as "confidential" and/or "Attorney's Eyes Only" included in Interocean's Statement of Undisputed Facts, Memorandum of Law, Declarations of Randall A. Tisdale and Jeffrey R. Baron, and exhibits attached thereto designated as confidential pursuant to the terms of the Parties' Stipulated Protective Order entered on October 21, 2011 (Docket No. 48).

Dated: August 2, 2012

INTEROCEAN COAL SALES, LDC, Plaintiff

BY: /s/ Scott C. Helmholz
One of Its Attorneys

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PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing Plaintiff's Notice of Rule 56 Motion for Summary Judgment was served electronically and by enclosing the same in an envelope addressed to the below parties at their address as disclosed by the pleadings of record herein, via FedEx with shipping prepaid at Springfield, Illinois, on this 2nd day of August, 2012.

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